

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

15

DECISION

TOPIC

**PROPOSED CONTESTED CASE DECISIONS - LINN GROVE
HATCHERY, INC.; MIKE ELSBERND; AND KEITH KRUSE**

Linn Grove Hatchery, Inc.

On September 13, 2004, the department issued Administrative Order No. 2004-AFO-100 to Linn Grove Hatchery, Inc. The order required the payment of a \$3,000.00 penalty for failure to submit a manure management plan. That action was appealed, and a hearing on this matter was held on November 29, 2005.

A Proposed Decision was issued on December 28, 2005. The Proposed Decision affirmed Administrative Order No. 2004-AFO-100, including the assessment of an administrative penalty in the amount of \$3,000.00.

Mike Elsbernd

On October 4, 2004, the department issued Administrative Order No. 2004-AFO-106 to Mike Elsbernd. The order required the payment of a \$3,000.00 penalty for failure to submit a manure management plan. That action was appealed, and a hearing on this matter was held on December 6, 2005.

A Proposed Decision was issued on December 28, 2005. The Proposed Decision affirmed Administrative Order No. 2004-AFO-106, including the assessment of an administrative penalty in the amount of \$3,000.00.

Keith Kruse

On October 29, 2004, the department issued Administrative Order No. 2004-AFO-115 to Keith Kruse. The order required Mr. Kruse to pay a penalty of \$1,500.00 for failure to timely submit a manure management plan. That action was appealed, and a hearing on this matter was held on November 29, 2005.

A Proposed Decision was issued on December 29, 2005. The Proposed Decision affirmed in part, and modified, in part, Administrative Order No. 2005-AFO-115. The department's \$1,500.00 penalty was reduced to \$1,000.00 based on the administrative law judge's interpretation of the language of the administrative order itself (i.e., \$500 mitigation). A copy of the order is attached.

There have been no appeals of these Proposed Decisions. In the absence of an appeal the Commission may decide on its own motion to review these Proposed Decisions. If there is no review of these Proposed Decisions, they automatically become final decisions of the agency.

Edmund J. Tormey, Chief
Legal Services Bureau

January 31, 2006